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SUBJECT: SHANGHAI UNIVERSITIES NURTURE NEXT GENERATION OF IPR  
LEADERS

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¶1. (SBU) Summary. A key element of the Shanghai Municipal Government's efforts to be a leader in intellectual property rights (IPR) protection has been the establishment and support of IPR colleges and research centers at several major universities throughout the city. Although these schools train an impressive number of students, the programs and quality of education have a wide degree of variation. During a series of meetings in recent months, leaders from several of the schools discussed their schools' curricula and initiatives, students' changing perception of IP issues, the National IP Strategy, and judicial IP protection. Regarding the National IP Strategy (released in June 2008) and the subsequently released Shanghai IP implementation strategy, the academics said they were too general and would likely not have a measurable effect on industry. Academics, recognizing that judicial IP protection varied greatly throughout China, rated Shanghai and Beijing courts as by far the best based on a number of criteria. Despite the IP academic community's welcoming of further cooperation with the Consulate, the Shanghai Foreign Affairs Office (FAO) continues to stymie formal cooperation on IP issues with the schools. End Summary.

Background on Shanghai IP Academic Community

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¶2. (U) Shanghai is home to three IPR colleges, which focus primarily on teaching and six IPR centers (based at local universities), which focus primarily on research. The Shanghai Intellectual Property Administration supported the establishment of the IPR colleges and centers, and it continues to play a leading role in determining curricula and research topics. The earliest IPR college was established at Shanghai University in 1994, and it continues to be one of the most active IPR learning centers. Both Tongji University and East China University of

Politics and Law followed suit with the establishment of IPR colleges in 2004, each with their own areas of specialization and varying degrees of success. The six IPR research centers are at Fudan University (founded in 1994); East China University of Science and Technology (2004); East China University of Politics and Law (2003); Shanghai Jiaotong University (2004); Shanghai Chinese Tradition Medicine University (2003), and Shanghai University of Politics and Law (2004).

#### Shanghai University - First IP Program in the City

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¶3. (U) The Shanghai University IPR Institute was established in 1994 and was the first IPR college in the city. Affiliated with Shanghai University's law school, it has a larger staff (10 professors) and number of students than any other IP college in Shanghai. According to the IP College Director Tao Xinliang, there are around 30 graduate students and 3 PhD candidates who major in IPR every year. The college only offers graduate IPR programs, but there are also about 200 undergraduate law students every year who choose an IPR focus. In addition, the school offers part-time and graduate-level classes on intellectual property management, as well as elective courses on intellectual property open to students from all majors. Tao emphasized that all the classes are taught with "IP management" in mind. He added the number of applicants for the IPR College is growing every year because of the increasing importance of IP in the development of the economy and the increasing demand for IP experts. Graduates from the IPR Institute are employed across the spectrum of IPR-related professions, including courts, government agencies, and law firms. An increasing number of students are choosing to enter the corporate world as IP counsels.

¶4. (U) The main research areas in the college are IP law and policy at both the national and municipal level. Graduate

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students also research topics related to corporate IP management and the protection of intellectual property in international trade. In addition, the college was involved in the revision of the Patent Law and the Implementing Regulation of the Patent Law.

¶5. (U) According to Tao, one feature that sets the school apart is its established link with a U.S. university. In November 2005, Shanghai University signed an agreement to establish a joint program with the American International Education Foundation (AIEF), a nonpartisan, nonprofit organization dedicated to promoting U.S. education internationally, and the Illinois Institute of Technology (IIT). Through this program, Shanghai University students have the option of pursuing an MBA, MPA or LLM degree at IIT, all with an IPR concentration.

#### Tongji University and its German Connection

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¶6. (U) In a separate meeting, Tongji University Intellectual Property Institute Director Shan Xiaoguang described how the institute was established in 2003 and is closely linked with Germany's Max Planck Institute (MPI) for Intellectual Property Competition and Tax Law. The Institute is heavily oriented towards Europe, and many of its professors hold degrees from German and British universities. Shan himself graduated from MPI and speaks fluent German. Tongji University has traditionally had close and longstanding ties with Germany and was first founded by a German doctor as the "Tongji German Medical School". The Intellectual Property Institute developed quickly from its initial three full-time professors to its now eight full-time professors, and it is likely to increase to fifteen in the near future. The school also boasts a number of regular high-level guest lecturers, including Tian Lipu, general director of State Intellectual Property Office, and Chen Zhixing, Director of the Shanghai IP Bureau. IPI hosted its first IP forum in 2004, focusing on research in technology transfer, patent law, software protection, trade secrets, and

European intellectual property law. It also offers consulting services to the Shanghai government and private industry.

¶ 17. (U) On the education front, IPI, in conjunction with the School of Economics and Management, offers a doctorate in management science and engineering with a specialization in intellectual property and knowledge management. Shan reported that the IP major is quite popular among students. There were about 40 doctoral level applicants for the IP management major every year - only four are accepted. Many applicants have a background in chemical and mechanical engineering, as well as natural sciences. IPI also works with the School of Liberal Arts and Law to offer a master's degree in law with a specialization in intellectual property. Undergraduates majoring in science and engineering at Tongji University can also enroll at IPI and gain a dual major in IP. IPI enrolls about 15 graduate students and PhD candidates every year. The students find jobs in academia, law firms, government agencies and private firms after graduating.

¶ 18. (U) According to Shan, Tongji works actively to promote IP awareness on campus and throughout Shanghai. The school often holds seminars, meetings and other publicity activities. It even conducts outreach and capacity building with variety of local government agencies. Another main area of focus is to provide information and consultation on legislation to the central and local governments. It also analyzes international IP protection trends and provides consultation for international companies on IP strategies. IPI gets support from the Shanghai Intellectual Property Administration (SIPA) and the State Intellectual Property Office (SIPO) via research project funding. The school is also involved in researching national patent law revisions. Shan welcomed the opportunity to further cooperate with the US Consulate, particularly noting the need for funding of projects and additional educational material.

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East China University IP School - Struggling Newcomer

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¶ 19. (U) East China University of Politics and Law's (ECUPL) IP School and Research Center opened its doors in 2003 and became the first to enroll undergraduates in its IP program. Gao Fuping, the IP school dean, credits its founding to the Central Government's rush to meet some of China's many post-WTO accession challenges. The center enrolled 52 students during its first year and has enrolled about 100 students a year since then. There are 11 professors and 3 working groups in the IP College. Its unique bachelor's degree program combines courses in management, natural science and IP law. ECUPL's IP School has an ongoing partnership with Johnson & Johnson, which funds research, publishing and scholarships. Rather than championing their model to other universities, however, ECUPL's IP School dean candidly explained that his program was not very successful because students are spread too thin. He feels that IP programs work better at the master's level.

¶ 110. (U) According to Gao, ECUPL's IP School is currently the only IP college in Shanghai that has three levels of IP majors: bachelor's, master's and doctorate. The majors in other IP schools are "IP law" or "IP management," which have a very different curriculum from the IP major of ECUPL. There are about 100 students every year who choose IPR as a major. IPR is also a basic course for all law students. Gao also noted that ECUPL's IP School and Research Center lacks funding from the Shanghai IP Bureau and, as a result, lacks some basic faculty, such as a full-time patent law professor with a natural sciences background. The school has nonetheless demonstrated strengths in e-commerce law, IP protection on the internet, and trademark protection. The school also emphasized IP research and holds several IP-related seminars every year. The focus of current research includes copyright issues in digital industries, licensing of copyrighted works, and patents usage as a commercial tool. Professors are also actively engaged in

compiling a series of IP textbooks.

Fudan University - Well-Connected Internationally

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¶11. (U) Fudan University's IPR Research Center opened its doors in 1995 and is the most active of the IP research centers in Shanghai. Independent from Fudan's law school, the center has guest professors and part-time advisers and researchers, including several from Shanghai government offices. According to the IPR Center Director Zhang Naigen, the center has developed partnerships with various overseas institutions, including the WIPO Academy, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law (Sweden), and the Comparative Law Institute of Paris First University. In addition, the center offers Fudan law students a basic IP course in English with support from guest experts from Philips Corporation. Beginning in 2006, the center offered an advanced patent law course for law students enrolled in master's degrees. Research at the center focuses on technology transfer, Sino-U.S. IP disputes, e-commerce and Chinese enforcement of WTO standards and intellectual property. Each year, Fudan's IPR Research Center hosts a conference on leading topics in IP research.

Shanghai Chinese Tradition Medicine University

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¶12. (SBU) Shanghai prides itself as a center for traditional Chinese medicine. To develop its lead in the field, Shanghai established an IP research Center at the Shanghai Chinese Tradition Medicine University (SCTMU) in 2003. Although the center does not offer an IP degree, it assists SCTMU faculty and students research and register patents on traditional Chinese medicine. The center's director, Song Xiaoting said there are roughly 100 Chinese IPR experts focused on the field of medicine, including traditional Chinese medicine, and about 20

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of them are in Shanghai. At SCTMU, there are an estimated 1,500 foreign students who study Chinese traditional medicine, most of whom are from Japan and South Korea. There are also about 40 students from the United States. Regarding the Patent Law revision, Song noted the changes in the law will benefit research in traditional Chinese medicine. He also believes that the trend in China is for genetic resource and traditional knowledge IP to be used fairly and reasonably. The best way for traditional Chinese medicine research to move forward is "cooperative development" on IP issues.

Views on NIPS and Its Implementation in Shanghai

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¶13. (SBU) The IP academics were of the opinion that the National IP Strategy (NIPS) is very general and will likely not have a measurable effect any one industry, including the software industry. Regarding the NIPS provision for the establishment of a national IPR appeal court, Fudan's Zhang Naigen said such a court is still a long way off - the Civil Procedure Law would need to be revised to establish a national IPR appeal court given that such a court would require jurisdictional changes. However, recent changes to the Civil Procedure Law did not incorporate this provision. Zhang also mentioned it would take at least three to five years to start another round of Civil Procedure Law revisions. Hence, it is nigh impossible to establish an IPR appeal court in the near future.

¶14. (SBU) Regarding Shanghai's plan to implement NIPS, the academics also said it is very general in nature and unlikely to produce concrete results. However, they believed more specific implementing measures would likely come out later and be more useful. Part of Shanghai's plan includes a provision to set up an IPR arbitration unit, which the city accomplished in October 2008. Zhang said the establishment of a specialized center was "nonsense" because Shanghai's arbitration system already sufficiently handled IPR cases. The special IPR arbitration

unit did not change anything, just consolidated IP cases under one umbrella and was more for "political show". Zhang added there is also no such precedent for creating such an IP arbitration center in international arbitration practice.

#### Students' Changing Perception of IPR

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¶15. (SBU) According to the IP academics, IP colleges have positive impact on the IP awareness of many students on campus. Students, particularly those who enroll in IP classes, gain a stronger sense of the role IP plays in boosting innovation and generally go on to make contributions in the field of IPR. Since students enrolled in the programs hail from different provinces in China, they are able to build better IP protection in their respective homes and contribute to better inter-jurisdictional cooperation after graduation. The research published by the schools also shapes people's views on IP and boosts awareness. Shanghai University's Tao said a good measure of this change is IP students' attitude toward buying pirated DVDs. After enrolling in IP programs, students generally change their perception of buying pirated DVDs from "indifference" to "disgrace". However, Tao also stated that foreigners are the main consumers of pirated DVDs in the first place. (Comment: This is a common comment we hear from interlocutors in Shanghai, but shops selling pirated DVDs are also filled with plenty of locals. End comment.) Professors were also unanimous that students' perception towards foreign IP protection is also evolving. In prior years, students largely believed that IP protection in China was a result of pressure from abroad and it was largely western companies that benefited from the IP system. However, interlocutors all emphasized that China's academic community is now focusing on IP protection as a means for China's own development and innovation and foreigners' IPR should be protected equally.

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#### Academics' Views on Judicial Protection

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¶16. (SBU) On China's judicial IP protection, academics acknowledged that there is a wide range of abilities and IP awareness among China's courts. All spoke highly of courts in Beijing and Shanghai, saying they do a much better job than courts at other places. Fudan's Zhang said that there are a number of criteria that point to this conclusion about Beijing and Shanghai courts: number of cases, case closure rate, judgment results, protection of rights holders, and general fair treatment. Zhang also noted that courts throughout China generally seek guidance from the Supreme Court on complicated IP cases.

#### Comment

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¶17. (SBU) Cooperation between the USG and Shanghai's academic IP community has the potential to make a real difference in IP protection, not just in Shanghai but throughout China. All of the academics with whom we spoke welcome future cooperation opportunities with the Consulate. The Consulate actively engages IP institutions on a regular basis; however, our attempts to cooperate on formal programs have been met with resistance by the Shanghai Foreign Affairs Office (FAO). Other than a voluntary speaker program at the ECUPL IP School in May 2006, the Shanghai Foreign Affairs Office has refused to allow formal IP programs with area universities. Generally all the IP schools require the Consulate to go through the FAO to request formal cooperative events. However, space may be opening. Fudan's Zhang Naigen, for example, recently said there is no need for the Consulate to go through FAO for formal programs. Other universities also appear to interpret the FAO requirement differently. SCTMU's Song said they need to get approval from Shanghai FAO only for some formal meetings. East China University's Gao said the approval from FAO is needed only if U.S. official wants to give a speech at a seminar. However,

there is no need for approval if the speaker is from the private sector, even though his or her speaking event may be coordinated by the USG. Given the range of opportunities, the Consulate plans to continue pushing the envelope with the Shanghai academic IP community.

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